

## REMARKS

Claims 1-12 and 23-24 are pending. Claims 1-12 are rejected under the judicially created doctrine of obviousness-type double patenting over U.S. Patent No. 5,870,723 to Pare, Jr. et al. in view of U.S. Patent No. 6,269,348 to Pare, Jr. et al. Claims 1, 3-6, 8, 10, 12, and 23-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,202,151 to Musgrave et al. in view of U.S. Patent No. 5,291,560 to Daugman. Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,202,151 to Musgrave et al. in view of U.S. Patent No. 5,291,560 to Daugman and U.S. Patent No. 6,045,039 to Stinson et al. Claims 7 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,202,151 to Musgrave et al. in view of U.S. Patent No. 5,291,560 to Daugman and U.S. Patent No. 6,105,010 to Musgrave. Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,202,151 to Musgrave et al. in view of U.S. Patent No. 5,291,560 to Daugman and U.S. Patent No. 6,070,141 to Houvener et al.

Reconsideration is requested. No new matter is added. Terminal disclaimers will be filed to overcome the obviousness-type double patenting rejections of claims 1-12 once the claims are allowed over the prior art. The rejections are traversed. Claim 1 is amended to clarify the invention. Claims 25-27 are added. Claims 1-12 and 23-27 remain in the case for consideration.

## REJECTIONS UNDER 35 U.S.C. § 103(a)

The Examiner rejected claims 1-12 and 23-24 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,202,151 to Musgrave et al. in combination with one or more other references. The Musgrave patent was filed December 31, 1997, and claimed priority back to May 9, 1997 through U.S. Provisional Patent Application Serial No. 60/046,012.

In addition to the rejection of claims 1-12 under 35 U.S.C. § 103(a), the Examiner also rejected claims 1-12 under the judicially-created doctrine of obviousness-type double patenting over U.S. Patent No. 5,870,723. The Examiner noted that “[t]he subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject. . .” (Office Action, page 3). The Examiner went on to state that, “there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent.” (Office Action, page 4).

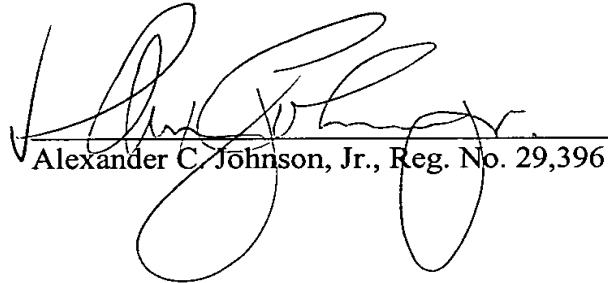
The specification has been amended to include a priority claim to U.S. Patent Application Serial No. 08/705,399, filed August 29, 1996, now U.S. Patent No. 5,870,723, issued February 9, 1999, the patent over which the Examiner has issued the double-patenting rejection. As the filing date of the '723 patent (August 29, 1996) pre-dates the priority date of Musgrave, Musgrave is no longer available as a reference under 35 U.S.C. § 103(a). Accordingly, all of claims 1-12 and 23-27 should now be allowable.

Applicant respectfully submits that each of the Examiner's rejections has been overcome and that this Application is in condition for allowance. Such is respectfully requested.

If any questions remain, please call the undersigned.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.



Alexander C. Johnson, Jr., Reg. No. 29,396

MARGER JOHNSON & McCOLLOM, P.C.  
1030 SW Morrison Street  
Portland, OR 97205  
Telephone (503) 222-3613  
Facsimile (503) 274-4622  
[alex@techlaw.com](mailto:alex@techlaw.com)